



**Senate Floor Statement of Senator Judd Gregg  
On Amendments to the 2007 Farm Bill  
November 15, 2007**

I wanted to rise to address the issue which has been noted by the Senator from Idaho, which is the process under which the Farm Bill is being considered here in the Senate. A number of the members of the other side of the aisle -- primarily the leadership -- have spoken on this process and have made the representation that in some way we on our side are slowing down this bill. Nothing could be less accurate in my opinion.

I know -- although I don't happen to support the Farm Bill because I think that it is bloated in many ways and essentially ignores the concept of a marketplace -- that the Farm Bill is going to pass. It always does pass. It always passes with a very large majority, which is assured by the fact that enough commodities are put into the subsidy system so that you can add up enough people to support it that it will always pass with a large majority. And there'll be 20 or 25 people who will vote against it.

So I've never held any belief or even thought for a second that this Farm Bill wasn't going to pass the Senate. It's going to pass the Senate. It has not been my intention to either slow it down or to try to defeat it because I know I can't do either. Or I didn't think I could do either. My intention was to improve it and to address issues which I think are relevant to it or which are appropriate to the issues which the Senate should be addressing today generally.

But, unfortunately, on the procedure that's been structured here by the Majority Leader, all members of the Senate, but especially members of the minority, the Republican members of the Senate, have been shut out of the ability to amend this bill. The Majority Leader has essentially created a system which you could call the permission slip approach to legislating. If he doesn't give you a blue permission slip, you can't bring forward an amendment on this bill. Obviously, that doesn't work for those of us who wish to amend the bill.

But, more importantly, it doesn't work for the institution. The essence of the Senate is the ability to amend legislation when it's on the floor. George Washington described the Senate as the place where the hot coffee from the cup, referring to the House, is the saucer into which that hot coffee is poured, so that it can be looked at, thought about, reviewed, to make sure there isn't hasty action, to make sure there isn't precipitous action,

to make sure there isn't action which will come back to haunt us because we didn't try our best to anticipate the consequences.

And so the Senate was structured to be a deliberative institution. That was its purpose. Our founding fathers designed it with that intent in mind, as expressed by George Washington. And it's always worked that way. We've always, when we've had major pieces of authorizing legislation on the floor, had the opportunity to amend that legislation. Now we have to just do "relevant" amendments. Well, under the rules of the Senate, there's no such thing as relevant amendments. Everything is relevant. Irrelevant amendments are relevant because that's the way the Senate is structured and that's the way we work. If there's an issue which a member wants to bring forward to discuss and have voted on, the idea is that the Senate will do that.

Now there is a procedure to cut off and go to relevant or germane amendments, but that procedure is a very formal procedure known as cloture, and it takes 60 votes. And that should not be done on a bill of this size until there has been adequate debate and a reasonable number of amendments considered. I notice that the Senator from Michigan, who I greatly admire and enjoy working with, had a large chart today which talked about the fact that there have been 55 filibusters by the Republican Party since this Senate has convened. The simple fact is the only reason there have been 55 cloture petitions filed around here is because the majority party has decided to try to shorten debate and shorten the amendment process at a rate that has never occurred before.

Bills are brought to the floor and cloture is filed instantaneously. That never used to happen around here. It's not our party that's been trying to extend these debates. It's the other party that's been trying to essentially shorten the debates in an extremely artificial and premature way and limit the capacity of the minority to make its points and to raise the issues that it considers to be important. On almost every one of these bills, the 55 that are noted, agreement could have been reached, time frames could have been agreed to, an amendment list could have been set, and we could have proceeded under regular order.

But regular order wasn't allowed because the other side of the aisle wants to manage the Senate the way the House is managed, where the majority party essentially does not allow the minority to offer amendments to the bills unless the majority party agrees to the amendments. Well, I can understand that in the House. There are 435 people there, and it would be pretty much chaotic. But in the Senate, we're not designed that way. The whole purpose of this institution is to allow extensive discussion of legislation and amendments on legislation regardless if the amendments are relevant or irrelevant.

And so the process that is being put in place here is really harmful, in my opinion, to the fundamental institution of the Senate. When you have a Majority Leader who comes forward immediately and fills the tree, and then says that the Majority Leader's not going to allow any amendments to the bill unless the amendments are accepted by the Majority Leader, which of course on its face is a little absurd. Obviously if we were all going to offer amendments that agreed with the Majority Leader, we'd all be in the Majority Leader's party. That's why we have a two-party system. The idea is a two-party system.

One party disagrees sometimes with the other party, and tries to make the points that we feel are important to governance.

But the Majority Leader closes the floor down and says that we have a permission slip process here where you've got to get his blue slip of approval before you can move forward. And then he files cloture on the bill after having not allowed any amendments to move forward. I think that does fundamental harm to the institution. It creates a precedent around here that may well be a slippery slope for us as an institution.

You know, I remember a couple of years ago there was a big debate about whether or not we needed cloture on the issue of Supreme Court judges. And our side of the aisle, because there was a lot of foot dragging about some of the Supreme Court judges that were being nominated, there were many who felt we should go forward and have a ruling of the Chair which says it only took 51 votes. The Constitution does not allow a filibuster against Supreme Court judges. Well, some on our side of the aisle felt that was really a slippery slope, and that type of a procedural heavy-handedness by the majority would harm the institution and would lead to serious ramifications down the road when the parties changed governance.

This institution will not always have a Democratic majority. I mean, the facts are pretty obvious. We change around here. The American people like to have government change. They like change. They get frustrated with the way things are going, so they make a change. There will be a Republican majority. I absolutely guarantee that. But the Democratic leadership, the Majority Leader, is in the process of setting a precedent, if he's successful, which will be extraordinarily harmful to the Republican majority -- should the minority party take back control and use that same precedent.

And so I think it's a huge mistake that this process has proceeded in this way. And it is inconsistent with the facts on the ground. The Majority Leader has said we only can have relevant amendments. Relevant, ironically, as defined by the majority side. Well, history has shown us that that's not the case. Especially on Farm Bills. Amendments are brought forward which are irrelevant to the Farm Bill all the time. And in fact, ironically, the Majority Leader has brought forward a number of those amendments. In 1996, for example, he offered an amendment to the Farm Bill regarding the importation of tea and the board of tea experts. In 1990, he offered an amendment to the bill regarding testing consumer products containing hazardous and toxic substances. In the year 2000, he offered an amendment to the Farm Bill regarding the Social Security Trust Fund and tax policy. In the year 2000, the Majority Leader offered an amendment to the farm bill regarding pest management in schools.

And the manager of the bill, Senator Harkin, in the year 2000 offered an amendment regarding fees on pesticide manufacturing. And in the year 1985, he offered an amendment regarding the creation of additional bankruptcy judges in the state of Iowa. I would argue that none of those amendments, under the most liberal interpretation of what is relevant, would be defined as relevant in a post-cloture exercise. And, therefore, by the actions of the majority, and specifically the Majority Leader and the Chairman of the

Agriculture Committee, they have set a precedent that, even if it weren't the right of the membership of the Senate, they have set a precedent that amendments which are irrelevant to the underlying bill can be brought forward. And they should be brought forward.

For example, today the Majority Leader came down and made a very compelling statement relative to the dire straits that people are in who are having their mortgages foreclosed on because of this sub-prime meltdown that we're having. And it is serious. It's very serious. Serious to those people especially, but it is also serious to the nation because it is affecting the credit markets. Well, I have an amendment. I filed an amendment which would address that issue.

And some farmers, I suspect, are caught in this sub-prime closure exercise, unfortunately. I'll bet you there are some farm families that have been hit by this. I know there have been. And so I think it's probably pretty relevant to these people who are farmers and, therefore, the argument can be made that it's relevant. But I'm not making that argument. I'm just saying that that issue should be raised right now. We shouldn't wait. That amendment which I've offered, which would essentially say that if your home is foreclosed on, you don't get hit with a tax bill for phantom income, which is what happens today. If you happen to be unfortunate enough to have your home foreclosed on, you get a tax bill from the IRS, even though you lost your home and even though you didn't get any income out of the foreclosure sale. And that puts a little more pressure on the person who's had their home foreclosed. That is a traumatic enough event, but to have the IRS come after you, that's horrible.

So this amendment would basically stop that practice. It would say to the IRS, no, you can't deem that as income. And there are going to be some farmers who are going to need that protection. There's going to be a lot of Americans who are going to need that protection, unfortunately. So we should take that amendment up. I would be happy to offer that amendment right now. But if I offered it right now, it would be objected to under the proposal here, because the Majority Leader has deemed that that's not relevant to the Farm Bill and, therefore, he's not going to allow it to be debated. I happen to think it's a pretty darned important amendment.

There are a couple other amendments I've suggested. I've suggested 11 other amendments to the bill. That's not outrageous. Some of them, I think, could probably be negotiated. I even suggested I take 15 minutes of debate on them, 7 1/2 minutes divided equally on each one of them. Unfortunately, the other side of the aisle rejected that idea. Didn't formally object to it but told me they wanted to talk a little bit more about some of these amendments. But the Assistant Majority Leader on the Democratic side of the aisle came down to the floor and specifically called out a few of my amendments and said that they were the problem. They were the problem because they shouldn't be heard on this Farm Bill. He mentioned the mortgage amendment which we just discussed.

He also mentioned an amendment which I happen to think is pretty darned relevant to this bill, especially to rural America and farm communities. In most of rural America

today, there is a crisis relative to the ability of baby doctors to practice their profession. It is virtually impossible, for example, in northern New Hampshire to see an OB-GYN unless you drive through the mountains or down through the southern or mid-part of the state. And that's true across this country because OB-GYN doctors, baby doctors, and people who deliver babies in rural communities can't generate enough income because the populations aren't large enough to pay the cost of their insurance against frivolous lawsuits or lawsuits generally.

And so I've suggested that for those doctors specifically, so that we can get more of them into the rural communities delivering babies for all people who live in the rural communities, but obviously for farm families, that we give protection to them. It's not outrageous protection; it's similar to the California protection for doctors which occurs generally under California law. It's so that the cost of their premiums for malpractice insurance will not drive them out of practicing and delivering babies in rural America and especially to farm families. The senator from Illinois implied that it wasn't a good amendment, and we shouldn't have to debate that on this bill. Why not? Why not take that amendment up? Fifteen minutes, I'm willing to debate that bill, 7 1/2 minutes on both sides, and then vote on it.

Well, it's not because it's not relevant, and it's not because it shouldn't be taken up. It's because there are a number of members on their side of the aisle that simply don't want to vote that issue. It's a hard vote. Why? Because it makes sense. But there are other people on the other side of the aisle who simply don't want to have to cast that vote. It's not about the relevance of the amendment. It is about the desire to avoid casting a difficult vote. Well, if you're here, you were sent here, you should make difficult votes on public policy that is important. And that happens to be a fairly significant piece of public policy that is important, whether or not women in rural America can have adequate and prompt access to an OB-GYN. I think that's pretty darned important.

And then the Assistant Leader said an amendment which I had on the list, my 12 amendments -- a small number of amendments -- was not appropriate because it dealt with the Gulf of Mexico. Well, this amendment is a follow-on to the ocean's commission, which was a very large, extensive study of the status of the ocean and America's involvement and what we should be doing relative to the ocean, which was completed two years ago and which was created, authorized and funded as a result of Senator Hollings from South Carolina's initiative, with my support as a member of the Appropriations subcommittee that had jurisdiction over NOAA.

And the conclusion of this commission, which was filled with the best and most talented scientists and leaders we have on the issue of how the ocean was being impacted, was that the Gulf of Mexico is being uniquely impacted by fertilizer runoff from the Midwest coming down the Missouri, the Mississippi and the other tributaries of the Mississippi, and going into the Gulf of Mexico and we're getting a dead zone there. A very significant dead zone because of the phosphates and I think the nitrates. And the commission called for action. It said we've got to do something as a country about this.

Well, what does this Farm Bill do? It expands dramatically the incentive to put more acreage into production. Which I say fine, that's great. But it doesn't address the runoff issue, that's occurring as a result of that additional production. And see if they can come up, working with the Department of Agriculture, with some ideas on how we might be able to abate the harm that we're doing we're doing to the Gulf of Mexico as an unintended consequence of expanding our agriculture community. But, no, I can't take that amendment up; it doesn't get a blue slip from the Majority Leader.

And then the fourth amendment which was mentioned or cited by the Assistant Leader as being something that was problematic -- and that's sort of a conservative description of the way he addressed the issues -- was an amendment I have that says the firefighters should have the ability to pursue collective bargaining. Now, maybe farms don't have fires. Maybe barns don't burn down and silos don't blow up. Maybe there weren't any fires and wildfires in San Diego. Maybe I missed all that. But it seems to me that fire protection is a pretty big part of everybody's lifestyle in this country. And having fire departments that know what they're doing, are properly paid, have proper equipment and proper training is really important, whether you happen to be in New York City or whether you happen to be on a farm somewhere in the Midwest or the West.

So I can't imagine under what scenario it's deemed that this amendment shouldn't be discussed and voted on. And again, I'm willing to do this for a brief period of time. I'm not trying to slow this bill down. I'm just trying to get a few issues up that I think are important to the definition of the problem that is as I see it in the farm region.

Then I had a whole series of amendments, not a series, because I only had 12, and five amendments dealt with the budget. This bill does fundamental harm to the concept of responsible budgeting. It plays games with our budget process. You know, we hear so much from the other side of the aisle about how they use Pay-Go to discipline spending around here. That's the term, it's the mother of all terms that we hear, Pay-Go, Pay-Go, Pay-Go.

Well, it turns out the Pay-Go is Swiss Cheese-Go as far as the other side of the aisle is concerned when it comes to spending restraint. On 15 different occasions, they have gimmicked Pay-Go and played games with Pay-Go to the point where they have spent almost \$143 billion in this Congress which should have been subject to Pay-Go but was never subject to a Pay-Go vote because they managed to gimmick their way around it.

And this Farm Bill is a classic example of that procedure occurring again. By changing dates one day so that they shift years and take the items out of what's called the Pay-Go scorecard, they are able to avoid Pay-Go charges in this bill to the tune of \$10 billion. That's not small change, by the way, \$10 billion. We should have a Pay-Go vote on that \$10 billion if we're going to maintain the integrity of the budget process. I think it's reasonable. So I've asked for that vote.

In addition, they've created a new emergency fund, a \$5 billion emergency fund. Now, the way we've always handled emergencies, and there are, I admit, many emergencies in

farm country, is that we have always paid for those emergency costs through an emergency supplemental. If there's a flood, if there's a drought, if there's a hurricane, we fund the costs after they've occurred and we pay the cost of the emergency.

What this would do is set up what amounts to a slush fund, of what I'm afraid will become basically walking-around money, of \$5 billion so that we're going to be guaranteed that every year for the next five years, at least a billion dollars is going to be spent on emergencies whether there's an emergency or not. You know, if a large wind comes up and blows a mailbox over in North Dakota, it's going to be declared an emergency because somebody's going to want to get their hands on that billion dollars.

That makes no sense from a budget standpoint. We know that human nature, and especially legislative nature, will spend that money once it is allocated and we should not do it upfront, we should not create a floor. We should do it the traditional way, which is to pay for emergencies when they occur. Now, there are some people around here obviously who disagree with me on that and I suspect I won't win that vote. But it doesn't mean we shouldn't have a vote on that point of budget discipline and the importance of budget discipline.

In addition, on the budget issue, there is a \$3 billion gimmick in here which is so creative, it sets a new standard for creativity. There has obviously always been movement of money from the discretionary side of the account to the mandatory side of the account and vice versa to try to free up more spending around here. That's been a game that's been played for a long time. An expenditure which is discretionary will suddenly find out that it's being put under a mandatory account so that the money that was being spent on it in the discretionary account can be freed up to spend it on something else. And if you get it into the mandatory accounts around here, you basically put it on autopilot and you don't have to worry about it ever again.

What this bill does is take this concept to a new dimension. It takes a mandatory spending responsibility and moves it over to a tax credit so that we now have a \$3 billion tax credit where we used to have a \$3 billion mandatory expenditure. And then it takes the \$3 billion that was being spent on the mandatory side of the account and spends it on a new program. So essentially by using the tax law in a very creative way, new spending of \$3 billion is generated. I think that's terrible budget policy. And I think we should address it, debate it and talk about it a little bit on the floor and definitely have a vote on it before we allow this bill to go to cloture.

So obviously there are a lot of issues raised by this bill. Otherwise there wouldn't be 240 amendments filed. By the way, the majority of those amendments have been filed from the other side of the aisle. But the fact that the procedure here has been structured in a way that these amendments, which are totally reasonable and are parts of very significant issues of public policy -- like whether or not women in rural America will be able to see an OB-GYN, whether or not a person whose home is foreclosed on will get hit with IRS tax penalties, whether or not a firefighter will get the equipment and the pay they think they need, whether or not the Gulf of Mexico should be looked at relative to maintaining

its vitality as an environmentally sensitive area – are not allowed to be considered because the Majority Leader has set up a blue slip permission process, is totally antithetical to the system that the Senate historically works under. It undermines the capacity of these issues to be debated and voted on.

And I just think, as I said earlier, it's doing fundamental harm to our institution. And even if I didn't want to bring these amendments forward, I would not want to have a process that denied the right of other people to bring amendments like them forward. You know, the fact that the members of the other side of the aisle, or at least the leadership of the other side of the aisle, want to insulate its membership from making tough votes on things like baby doctors being available to farmers and firemen getting the equipment they need and people whose homes are foreclosed on not being subject to IRS penalties, the fact that they don't want to vote to protect their membership, that's understandable. That's their leadership. Their leadership clearly is trying to protect and do their job.

But to abuse the process of the Senate in order to accomplish that, and create a procedure where you basically foreclose amendments in a manner that actually is even stricter and more contracted than what the House does, does more harm than good to the institution. Because, as I said earlier, it puts us on an unnecessary and inappropriate slippery slope towards a fundamental change in the way the Senate works.

Mr. President, I appreciate the courtesy of the Chair and the patience of the Senator from Massachusetts, and I yield the floor.